

## **REMARKS**

With claims 1, 3-4 and 7-17 originally pending, with this amendment claim 13 has been cancelled, while claims 1, and 14-17 have been amended as described in detail below. Further, the specification has been amended to correctly refer to the coil resistances 63-65 as shown in Fig. 2, rather than reference number 8.

### **Claim Objection**

Claims 17 stands objected to because “the sequence of commutation states” lacks antecedent basis. Claims 17 have been amended as suggested by the Office Action to correct the informalities. Accordingly, Applicant requests that the objection to claim 17 be withdrawn.

### **Section 103 Rejections**

Claims 1 and 4 stand rejected under 35 U.S.C. § 103 as being unpatentable over Schirle (6,055,120). Based on the amendments to claim 1, this rejection is believed to be overcome with respect to claims 1 and 4.

Claim 1 has been amended to recite “varying using the temperature of the VCM to determine the spin-up parameters of the spindle motor based on the determined temperature, wherein the spin-up parameters comprise at least one of: a. spin-up current; b. spin-up voltage; and c. commutation time.” Schirle does not disclose varying spin-up parameters based on temperature. Instead, Schirle only determines a start-up failure time based on the temperature (see Schirle col. 4, lines 35-65 as cited in paragraph 1 of Office Action). The spin-up parameters of the spindle motor remain unchanged irrespective

of temperature change. Applicant's specification paragraphs 41-45 disclose how spin-up parameters are varied with temperature, separate from a failure or shut-down time out period.

The Office Action states in paragraph 3, as well as paragraph 1 relating to Applicant's previous remarks, that in Schirle "Specifically, the detected temperature 'sets' a time-out period; the processor determines the spin-up parameter, speed, based on the set time-out period, and the speed parameter is determined by the voltage across the motor (voltage parameter during spin-up to "normal" speed," referencing Schirle Fig. 2, #28; Fig. 3, #71; col. 4, II. 35-65). However, col. 4, lines 35-65 disclose no more than setting the time-out period (or failure time) based on temperature change. See col. 4, line 50. Schirle does not disclose using temperature to vary spin-up parameters, where the spin-up parameters include "a. spin-up current; b. spin-up voltage; and c. commutation time," as claimed in claim 1. Accordingly claim 1 is now believed patentable as non-obvious over Schirle.

Claim 4 is believed allowable as non-obvious over Schirle based at least on its dependence on claim 1.

Claim 3 stands rejected under 35 U.S.C. § 103 as being unpatentable over Schirle and further in view of Wallis (5,268,804). Claim 3 is believed allowable based at least on its dependency on claim 1.

Claim 13 stands rejected under 35 U.S.C. § 103 as being unpatentable over Schirle and further in view of Wallis (5,268,804). Claim 13 has been cancelled rendering this rejection moot with respect to claim 13.

### **Allowable Subject Matter**

Claims 7-12 are indicated as being allowed.

Claims 14-17 are indicated as being allowable if rewritten in independent form. Accordingly, claims 14 and 15 have been rewritten in independent form and are now believed in condition for allowance.

Claims 16-17 are believed allowable in dependent form based on their dependence on now allowable claim

14.

### **Conclusion**

In light of the above amendments and remarks, claims 1, 3-4, and 7-12 and 14-17 are all believed in condition for allowance. Accordingly, reconsideration and allowance of these claims is respectfully requested.

No fee is believed due with this response. Should a fee be due, the Commissioner is authorized to charge any underpayment to Deposit Account No. 06-1325.

Respectfully submitted,

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